AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the

Western District of New York

UNITED STATES DISTRICT COURT FILED MAY 19 2016 MARY C. LOEWENGUTH, CLERK WESTERN DISTRICT OF NY

United States of America

v.

KYLE BERTRAND, PAUL KOZLYUK, RICHARD LIPKE, MICHAEL GERONE, HERBERT STREET

Defendants

Case No. 16-MJ-564

CRIMINAL COMPLAINT

I, Andrew Jasie, the complainant in this case, state that the following is true to the best of my knowledge and belief that in the Western District of New York, the defendants violated offenses described as follows:

Between on or about January 2015 and July 2015 in the Western District of New York, the defendants agreed and conspired with each other, and did knowingly execute or attempt to execute a scheme to defraud and to obtain money by means of false pretenses, representations and promises, and for the purpose of executing such scheme caused to be transmitted by means of interstate wire communications writings, signs, and signals, in violation of Title 18, United States Code, Sections 1343 and 1349; and did knowingly use, possess and transfer, without lawful authority, a means of identification of another person, during the commission of a predicate felony, namely, wire fraud, in violation of Title 18, United States Code, Section 1028A; and did knowingly and with intent to defraud trafficked in and used one or more unauthorized access devices during any one year period and by such conduct obtain anything of value aggregating $1,000 or more during that period in violation of Title 18, United States Code, Section 1029(a)(2).

SEE ATTACHED AFFIDAVIT OF TASK FORCE OFFICER ANDREW JASIE.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

T.F.O. ANDREW JASIE

Printed name and title

Sworn to before me and signed in my presence.

Date: May 19, 2016

Judge's signature

JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE

Printed name and title

City and State: Rochester, New York

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:
CITY OF ROCHESTER)

ANDREW JASIE, a Task Force Officer with the Federal Bureau of Investigation, United States Department of Justice, having been first duly sworn, deposes and says:

1. I am a Task Force Officer with the Federal Bureau of Investigation (FBI). As such, I am an "investigative or law enforcement officer of the United States" within the meaning of Title 18, United States Code, Section 2510(7), that is, an officer of the United States empowered by law to conduct investigations of and to make arrests for offenses enumerated in Title 18, United States Code, Section 2516.

2. Prior to becoming a Task Force Officer with the FBI, I have been employed by the New York State Police for 17 years. I have been an investigator with the New York State Police for the last 12 years. During that time, I have participated in investigations involving drug trafficking, fugitives, and Hobbs Act robbery, money laundering, and stolen property. In addition, I have had the opportunity to work with other FBI agents and other law enforcement agents and officers of varying experience levels, who have also investigated drug trafficking networks, fugitives, and robbery, and theft cases. My investigative experience detailed herein, and the experience of other law enforcement agents who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

3. In my capacity as a Task Force Officer, I am currently involved in an investigation related to a large scheme to defraud involving Kyle Bertrand (11/XX/1987), Paul Kozlyuk (01/XX/1986), Richard Lipke (12/XX/1978), Michael Gerone (04/XX/1982), Herbert Street (11/XX/1979). The subjects are using stolen credit card information to fraudulently purchase items over the telephone, and causing significant loss to the stores where the purchases are being made. Based on the investigation, your affiant believes there is probable cause that the subjects conspired with each other, and did knowingly execute or attempt to execute a scheme to defraud and to obtain money by means of false pretenses, representations and promises, and for the purpose of executing such scheme caused to be transmitted by means of interstate wire communications writings, signs, and signals, in violation of Title 18, United States Code, Sections 1343 and 1349; and did knowingly use, possess and transfer, without lawful authority, a means of identification of another person, during the commission of a predicate felony, namely, wire fraud, in violation of Title 18, United States Code, Section 1 028A; and did knowingly and with intent to defraud trafficked in and used one or more unauthorized access devices during any one year period and by such conduct obtain anything of value aggregating $1,000 or more during that period in violation of Title 18, United States Code, Section 1029(a)(2).

4. This affidavit is being submitted for a limited purpose, that is, a probable cause determination for issuance of the sought criminal complaint and arrest warrant. Not all facts of the investigation are contained herein. The facts set forth in this affidavit are based upon my own personal knowledge; knowledge obtained from other individuals, including law enforcement officers and industry representatives; my review or the review by

other law enforcement officers of documents of undercover law enforcement activities related to this investigation; communications with others who have personal knowledge of the events and circumstances described herein; and information gained through my training and experience.

INVESTIGATION

All County Lawn, Tractor and Trailer

5. On April 24, 2015, the New York State Police went to "All County Lawn, Tractor, and Trailer", located at 7199 State Route 96 in the Town of Victor, NY. While at the location, James Keogan was identified as the owner of the company. Keogan stated that on February 2, 2015, a customer called his business, and purchased a TGS 1100 Boss 11 Cubic Feet Vehicle Tailgate Spreader (Including Stabilizer) over the phone with a credit card. The spreader was sold for $1,850.00 plus 7.5% sales tax, totaling $1,988.75. On February 4, 2015, the same customer called his business again, and purchased a Boss 9' 2" Power V stainless DXT Snow Plow over the phone with a credit card. The plow was sold for $6,300.00 plus 7.5% sales tax, totaling $6,772.50. An individual, who operated a 2013 GMC Pick-Up, bearing New York registration 33408MD showed up on both dates, and took ownership of both items.

6. At a later date, Keogan was contacted and advised by the credit card company that the purchase was unauthorized. Keogan was also informed the credit card company was not going to cover the charge. An investigation determined Richard Lipke was the individual who picked up both purchased items. Law enforcement then spoke with Lipke, who stated an individual by the name Kyle Bertrand purchased the two items for

him, and that Lipke picked them up. Lipke still possessed both items and voluntarily turned same over to the New York State Police. Law enforcement determined the credit card used belonged to a women with the initials T.R. (xx/xx/1929). Law enforcement made contact with T.R. who stated her credit cards had unauthorized purchases at both All County Lawn, Tractor, and Trailer, and Home Depot in Gates, NY.

Home Depot

7. On May 11, 2015, the New York State Police went to Home Depot, and spoke with the asset protection manager, Robert Gates. Law enforcement inquired about possible fraudulent credit card purchases over the phone. Gates stated Home Depot has had several fraudulent "over the phone" purchases from a person identifying himself as "Lance Baxter". The fraudulent purchases were completed utilizing credit card numbers 4147-XXXX-XXXX-1468, 4147- XXXX-XXXX -3604, and 5460- XXXX-XXXX -4325, and the phone number (585) xxx-2937. On January 22, 2015, Baxter made a purchase totaling $3,066.57. Baxter provided the address of 370 Columbia Avenue, New York, NY 10024, telephone number (585) 623-2937, and listed the contact name "Rich". Baxter stated the items would be picked up by the customer. The credit card was determined to be stolen. On January 23, 2015, Baxter made a purchase totaling $3,305.48. Baxter provided the address of 370 Columbia Avenue, New York, NY 10024, telephone number (585) 623-2937, and listed the contact name Rich. Baxter stated the items would be picked up by the customer. The credit card was determined to be stolen.

8. On January 26, 2015, Baxter made a purchase totaling $2,741.75. Baxter provided the address of 370 Columbia Avenue, New York, NY 10024, telephone number

(585) XXX-2937, and listed the contact name Rich. Baxter stated the items would be picked up by the customer. The credit card was determined to be stolen. On January 27, 2015, Baxter made a purchase totaling $3,561.52. Baxter provided the address of 370 Columbia Avenue, New York, NY 10024, telephone number (585) XXX-2937, and listed the contact name Rich. Baxter stated the items would be picked up by the customer. This particular purchase was made utilizing a stolen card information without the owner's permission.

9. Gates then conducted a search and located the following fraudulent purchases made from Home Depot with stolen credit card account information linked to "Lance Baxter" and/or telephone number (585) XXX-2937:

January 12, 2015, order number 304948, amount $2,604.91.

January 19, 2015: order number 305479, amount $2,717.02.

January 19, 2015: order number 229071, amount $3,659.45.

January 20, 2015: order number 305593, amount $2,548.03.

January 21, 2015: order number 229253, amount $3,618.25.

January 22, 2015: order number 305833, amount $2,763.53.

January 22, 2015: order number 229372, amount $3,066.57.

January 23, 2015: order number 229473, amount $3,305.48.

January 26, 2015: order number 306128, amount $1,997.86.

January 26, 2015: order number 306131, amount $979.45.

January 26, 2015: order number 229605, amount $2,741.75.

January 27, 2015: order number 229708, amount $3,561.52.

January 28, 2015: order number 229818, amount $1,618.07.

January 29, 2015: order number 229937, amount $878.91.

January 30, 2015: order number 230011, amount $3,306.06.

January 30, 2015: order number 230034, amount $2,557.61.

February 1, 2015: order number 230155, amount $3,002.24.

February 2, 2015: order number 230213, amount $1,648.43.

February 2, 2015: order number 230214, amount $1,632.96.

May 15, 2015 Interview of Richard Lipke

10. On May 15, 2015, law enforcement interviewed Lipke, who stated Kyle Bertrand would call random people on the phone, and say either their cell phone and/or cable would be shut off unless they provided their credit card information to pay their "delinquent" bills over the phone. Bertrand obtained the credit card account information then subsequently made purchases utilizing the stolen credit card information. Bertrand used multiple people to pick up the items from the purchase locations. Lipke used Bertrand's stolen credit card account information to purchase material from several Home Depot locations in the Rochester area, and to purchase the previously mentioned snow plow and salter from All County Lawn, Tractor, and Trailer in Ontario County. Lipke stated Michael Gerone, Herbert Street and Paul Kozlyuk were also involved in the fraudulent scheme with Bertrand.

Victor Power Equipment Store

11. On May 15, 2015, Michael Knapp, the owner of Victor Power Equipment, 39 Maple Avenue, Victor, NY, reported that on February 14, 2015, a male by the name "Jared" contacted his business by phone. Jared made a purchase over the phone for two Ariens AX254 deluxe 28 inch snow blowers, utilizing credit card number 5466-16XX-

XXXX-0840. Both items totaled $2,147.86. On May 7, 2015, Victor Power Equipment was contacted by the same credit card company which informed the company that the credit card account number utilized was stolen, and the purchase was fraudulent / unauthorized. The credit card company stated they would not cover the purchase, and Victor Power Equipment was forced to take a loss for the items.

12. On May 26, 2015, an employee of Victor Power Equipment reported a male named "Michael Fisher" from H&M Construction purchased multiple items from Victor Power Equipment over the phone with stolen credit card account numbers. The first date was on May 13, 2015, where Fisher purchased three gas powered generators valued at $4,197.00. The second date was on May 22, 2015, where Fisher purchased three power saws valued at $4,185.00. Fisher stated he would send another employee to pick up the items. On both dates, an unknown white male arrived at Victor Power Equipment and took possession of all of Fisher's purchased items. The owner, Michael Knapp, was later contacted by the credit card company, and informed the credit card utilized to complete the purchases was stolen and they would not cover the purchases. Video surveillance taken at Victor Power Equipment from both dates was reviewed, and depicts a white male in his 30's who operated a white colored Chevrolet Impala bearing New York registration GMM3351. A Department of Motor Vehicle inquiry determined the vehicle was registered to Herbert Street, 144 Forest Avenue, Rochester, NY.

13. Law enforcement then searched the internet website Craigslist.com for anyone selling a Stihl TS420 cutoff saw. Law enforcement located an individual that was selling a brand new Stihl TS420 cutoff saw, and contacted him pretending to be a customer interested in the item. The individual was identified as Paul Kozlyuk of 1255 Beadle Road,

Brockport, NY. State Police responded to Kozlyuk's residence, and observed the Stihl TS420 cutoff saw. The saw's serial number was 179371894 which was one of the items stolen from Victor Power Equipment. Kozlyuk stated that Bertrand purchased the saw for him, and he was to send Bertrand money for it. Law enforcement then responded to 144 Forest Avenue and interviewed Herbert Street who admitted that he picked up the stolen saw from Victor Power Equipment. Street stated Kozlyuk paid him a few hundred dollars for picking up the merchandise. Street stated he gave Kozlyuk the merchandise in the parking lot across from Kozlyuk's business (1030 East Main Street City of Rochester). Street further stated Bertrand makes purchases over the phone with stolen credit card account information, and then has people pick the merchandise up for him. The individual would then sell the merchandise, and send the money to Bertrand. Street stated that Bertrand was a New York State Parole absconder at the time of the interview, and was living in the State of Florida. A review of the fraudulent charges attributed to Bertrand and his associates at Victor Power Equipment include:

- On May 13, 2015, one EU3000I GENERATOR Unit price $1,899.00
- On May 13, 2015, one EU2000IAN1 EU2000 GENERATOR Unit price $1,149.00.
- On May 13, 2015, one EU2000IAN1 EU2000 GENERATOR Unit price $1,149.00.
- On May 22, 2015, one EU3000I-HANDI GENERATOR Unit price $2,249.00.
- On May 22, 2015, one TS420 CUT OFF SAW 14" Unit price $968.00.
- On May 22, 2015, one TS420 CUT OFF SAW 14" Unit price $968.00.

Charlotte Appliance

14. Richard Lipke stated Bertrand conducted an over the phone credit card purchase at Charlotte Appliance, 3200 Lake Avenue, Rochester, NY 14612. On May 27, 2015, New York State Police arrived at Charlotte Appliance, and spoke with the Office Manager, Grace Labate. Labate stated from October 30, 2014 and November 8, 2014, someone conducted over the phone credit card purchases totaling $9,980.27. Charlotte Appliance was later contacted (after the merchandise was released), and advised the purchases were fraudulent and that the credit card company wasn't going to cover the purchases. The fraudulent charges occurring on October 30, 2014 were determined to be:

- one DGHF2360PF, Frigidaire bottom freezer.
- one FGES3065PF, Frigidaire electric range.
- one FGID2466QF, Frigidaire dishwasher.
- one FGMV175QF, Frigidaire microwave.
- one WTW8100BW, Whirlpool washer.
- one WED8100BW, Whirlpool electric dryer.
- one 5- foot washing machine hose.
- one 4 foot range cord.
- one 4 foot dryer cord.
- one 4 inch by 8 foot vent kit.

The items totaled $5,540.00 without tax.

15. On November 8, 2014, the following items were fraudulently purchased:

- one FGHB2866PF, Frigidaire refrigerator.
- one GID2474QF, Frigidaire dishwasher.

- one FGMV175QF, Frigidaire microwave.
- one FGEF3055MF, Frigidaire electric range.
- one Refrigerator 5 year Warranty.
- one Base appliance 5 year warranty.
- one 4 foot range cord.
- one Dishwasher connector.

The items totaled $3700.99 without tax.

Admar Construction Equipment

16. On May 26, 2015, the New York State Police was contacted by Herbert Street, who stated Bertrand conducted an over the phone credit card purchase at Admar Construction Equipment, 1950 Brighton Henrietta Town Line Road, Rochester, NY 14623 with stolen credit card account information. While at the location, Branch Manager Frank Lippa confirmed "Michael Fisher" from H&M Remodeling recently purchased power equipment over the phone with an American Express credit card totaling approximately $4,239.00. The owner was informed the charge was completed utilizing possible stolen credit card account information, and not to release it. Items were not released which prevented the larceny. Lippa then stated that "Michael Fisher' conducted an over the phone credit card purchase utilizing an American Express credit card on May 12, 2015, which totaled $2,997.00. The purchase was processed, and the items were delivered. Street was interviewed, and stated he picked this equipment up on May 12, 2015 then turned it over to Kozlyuk in exchange for a few hundred dollars. Street also identified the name "Fisher" as a name Bertrand would use to conduct fraudulent transactions.

Brodner Equipment

17. On May 28, 2015 Gates Police Department Sergeant Palermo contacted the New York State Police, and reported that Michael Fisher conducted an over the phone credit card purchase of a Honda Generator EU3000IS at Brodner Equipment, 3918 Lyell Road, Rochester, NY for a total of $2,158.92. A white male in his 20's with a thin build and brown hair arrived at Brodner Equipment driving a white colored 4-door sedan (possibly an Impala or Grand Am), and took possession of the generator. The credit card company later contacted Brodner Equipment, and the credit card purchase was fraudulent, and they would not cover the charge.

Del Monte Spa

18. On June 1, 2015, a witness contacted the New York State Police, and reported Bertrand and Michael Gerone utilized stolen credit card account numbers to purchase a large amount of gift cards from The Del Monte Spa, 43 North Main Street, Pittsford, NY. The witness stated the gift cards were then sold on Craigslist.com in exchange for money. The New York State Police responded to The Del Monte Spa and spoke with the Spa Director, Pamela Jaffarian. Jaffarian stated that on March 1, 2015, she determined people were purchasing gift cards online with stolen credit card account information. Jaffarian immediately voided out all associated gift cards, which prevented the loss of approximately $20,000.00 - $30,000.00. Jaffarian stated the gift cards were voided but people were still attempting to redeem them. On June 2, 2015, while at The Del Monte Spa, law enforcement spoke with a customer who arrived to use one of the "voided" gift cards. The customer stated he purchased gift cards on Craigslist.com, and then met up with

a male that identified himself as Michael Fisher. The customer stated he purchased three $1,000.00 gift cards (value totaling $3,000) for approximately $1,100.00 to $1,300.00. The customer then took the gift cards to The Del Monte Spa to confirm they had value. The customer had planned on having the $1,000.00 gift cards converted into thirty $100.00 gift cards in order to pass them out as gifts. The customer was advised by Jaffarian that all the gift cards he possessed were voided, and had zero value. The fraudulent cards were seized as evidence.

Wehner Mower, Inc.

19. On June 5, 2015 a witness reported to the New York State Police that Bertrand conducted over the phone credit card purchases with stolen credit card account information at Wehner Mower Inc., 2321 Ridgeway Avenue in Greece, NY. Law enforcement responded to Wehner Mower Inc., and spoke with employee Lauren Stoessel. Stoessel stated on May 5, 2015 a male who stated he was the owner of H&M Landscaping conducted an over the phone credit card purchase of three Stihl backpack blowers. The male paid for the blowers utilizing credit card account number 4037-69XX-XXXX-1920 for a total of $1,699.85. The three blowers were picked up by an unknown person. On May 9, 2015 the same owner of H&M Landscaping contacted Wehner Mower Inc. and conducted another over the phone credit card purchase for four additional Stihl backpack blowers. Credit card account number 4147-20XX-XXXX-7011 was utilized to complete the purchase of $2,159.80. The items were later picked up by an unknown individual. Lawrence Wehner, the store owner, stated both credit card companies informed him the credit card account numbers were stolen, and they would not cover the purchases. Law enforcement reviewed the purchase orders which documented 144 Forest Avenue, Rochester, NY 14622

as being the shipping address. Street resides at this address, and was subsequently interviewed. Street stated he did pick up blowers from Wehner Mower Inc., and dropped them off at Gerone's residence.

Bentley Brothers Tractor Equipment Supplier

20. On June 12, 2015, the New York State Police was contacted by Laura Bentley, owner of Bentley Brothers Tractor Equipment Supplier, 13936 State Route 31, Albion, NY. Bentley reported that Michael Fisher from H&M Construction conducted an over the phone credit card purchase of two Stihl chainsaws and one Stihl cutoff saw, totaling approximately $3,477.45. Bentley stated she was previously contacted by a Stihl representative who advised someone was purchasing Stihl equipment over the phone with stolen credit card account numbers. Bentley stated the purchase from "Michael Fisher" did not seem normal, and felt her business may be the victim of a larceny. Bentley stated Fisher utilized credit card number 4313-0729-XXX-0482, which returned to Louis Freiberg. Freiberg advised that the purchase was not authorized. In order to further the investigation, the male known as Fisher was contacted, and informed the purchase was completed. He then sent James Mallory and Gwen Dolyn to Bentley Brothers to pick up the items. Mallory and Dolyn were stopped by law enforcement at Bentley Brothers and they stated they were offered $200.00 by Kozlyuk to pick up the items, and return them to him.

21. On June 19, 2015, a witness contacted the New York State Police and stated Bertrand purchased a double jet ski over the phone with stole credit card account information from McMillian Marine, 1070 Empire Boulevard, Rochester, NY. The New York State Police responded to McMillian Marine, and spoke with the general manger,

David Heimes. Heimes stated he was contacted by Michael Fisher who purchased a double Jet Ski trailer over the phone on May 5, 2015, and provided credit card account information for the purchase. Heimes sold Fisher a 2015 Load Rite double watercraft trailer model WV2200, vehicle identification number 5A4YKKL14F2010009 for $1,535.00. Fisher stated that his business associate would pick up the trailer. On the same date, a white male in a black truck responded to McMillian Marine, and towed the trailer from the location. Heimes was later contacted by the credit card company, informed the purchase was fraudulent, and they weren't going to cover the purchase. Lipke later admitted that he picked up the trailer from McMillian Marine for his cousin Gerone. Lipke also stated Bertrand had purchased the trailer over the phone with a stolen credit card number.

Fraudulent Purchase from Derek Fuoco

22. On June 19, 2015, the New York State Police took a report from Derek Fuoco. Fuoco stated on May 4, 2015, a male named "Michael Fisher" answered his classified ad to sell his 2012 Kawasaki Ultra 300X Jet Ski. Fisher purchased the Jet Ski over the phone with two different credit card accounts for a total of $11,000.00. The next day, a white male named Paul showed up, and stated he was Fisher's business partner. Paul towed the Jet Ski away. Paul drove a black pickup truck that was wrapped in carbon fiber vinyl with the company's logo, "RL Remodeling," on the driver's door. Lipke operates a 2013 GMC Pickup bearing New York registration 33408MD which is wrapped in black carbon fiber vinyl, and is the owner of RL Remodeling. Lipke was interviewed regarding this incident, and stated he did pick up the Jet Ski for his Cousin Gerone. Lipke stated Gerone sold the Jet Ski to Kozlyuk. Kozlyuk was subsequently interviewed, and stated Gerone possessed the Jet Ski, and he wanted to purchase it, but Gerone wouldn't sell it.

GBG Inc.

23. Lipke admitted to law enforcement that he picked up three furnaces from GBG Inc., 460 Buffalo Road, Rochester, NY, which Bertrand purchased over the phone with stolen credit card account information. Lipke stated the furnaces were for his cousin Gerone who currently possesses one of the furnaces. On June 22, 2015, the New York State Police responded to GBG Inc., and interviewed employee Tyrick Wilson. Wilson stated on November 26, 2015, GBG Inc. was contacted by a male who identified himself as an employee of TJ Heating and Cooling in Rochester, NY. The male purchased three Goodman furnaces over the phone with a credit card. The purchase total was approximately $3,173.00. The male stated someone from the company would respond, and secure the three furnaces. Lipke was identified by Wilson as the individual who picked up the furnaces. GBG Inc. was later contacted by the credit card company, informed the purchase was unauthorized, and the purchase was not covered. Wilson also stated that on February 2, 2015, an unknown male contacted GBG Inc. and purchased four furnaces by phone. Lipke showed up to pick up the four furnaces. Due to the three previous furnaces being fraudulently obtained by Lipke, Wilson refused to release them. Wilson contacted 911, but Lipke left the property before the Rochester Police Department arrived.

Search Warrant at Michael Gerone's Residence

24. On June 23, 2015, the New York State Police executed a search warrant at Michael Gerone's residence, 231 Haviland Park, Rochester, NY. During the search, law enforcement seized the following stolen items:

- one Frigidaire range, serial number VF43253751, purchased with Stolen credit card information from Charlotte Appliance.

- one Frigidaire refrigerator, serial number 4A43324623, purchased with stolen credit card information from Charlotte Appliance.

- one Frigidaire dishwasher, serial number KH42630448, purchased with stolen credit card information from Charlotte Appliance.

- one Stihl back pack blower, serial number 502548907, purchased from Wehner Mower Inc.

- one Goodman furnace, serial number 1410138188, purchased from GBG Inc., with stolen credit card information.

25. On July 22, 2015, the New York State Police were advised that Lipke was in possession of four stolen items purchased by Bertrand at Home Depot with stolen credit card account information. Lipke turned all four items over to the New York State Police, which are as follows:

- one American Standard whirlpool heater, UPC 791556058361.

- one Aloha 5' white right hand drain tub, UPC 008792104005.

- one Aloha 5' white left hand drain tub, UPC 008792105002.

- one American Standard everclear white tub, UPC 033056668382.

Little Power Shop

26. On July 28, 2015, the New York State Police was contacted by John Anderson, owner of "Little Power Shop", 40 Susquehanna Road, Bradford, PA. Anderson reported a person named Robert Bandman called his store, and ordered multiple custom diesel parts for a Dodge 6.7 Cummins diesel truck. Bandman paid over the phone with a credit card, and had the items shipped to multiple locations including Marketview Garage (1030 East Main Street, City of Rochester, NY), Robert Bandman (728 Denis Road, Town of Greece, NY), and Robert Bandman (1769 Stone Road Apartment #5, Town of Greece,

NY). After approximately $21,793.02 worth of items were shipped from the company, the credit card companies contacted Little Power Shop, reported Bandman's credit card purchases were fraudulent, and the credit card company would not cover the purchases.

27. Law enforcement determined the following information related to the addresses where the items shipped:

- Marketview Garage located at 1030 East Main Street, City of Rochester, NY is a business owned by Kozlyuk.
- Imperial Manor Apartments is located at 1769 Stone Road Apartment #5, Greece, NY. Gerone was an employee of apartment complex and at the time the items were shipped and had access to Apartment #5 which was vacant at the time of the shipment.

Diesel Power Products

28. On July 28, 2015 the New York State Police was contacted by a manager Joshua Ullrich of Diesel Power Products, 16019 East Lacrosse Lane, Spokane Valley, WA. Ullrich reported that two people using the names Thomas Fisher and Jerome Ford purchased multiple custom diesel parts over the phone with credit card information totaling approximately $26,935.13. The items were then shipped to both James Doyle's residential property located at 728 Denise Road, Greece, NY, and/or Marketview Garage located at 1030 East Main Street, Rochester, NY. After items were purchased and shipped, Diesel Power Products was contacted by the credit card company, advised the purchased we not authorized, and purchases would not be covered by the credit card company.

29. Kozlyuk was interviewed with respect to these orders and stated Bertrand purchased the items, and they were later installed on Kozlyuk's truck.

Best Tile

30. On June 19, 2015, Investigator Andrew Wigton of the Irondequoit Police Department contacted the New York State Police, and advised that a person who identified himself as "Thomas Popper" placed a telephone order on January 29, 2015 to Best Tile, 380 Empire Boulevard, Irondequoit, NY. Thomas Popper called from 623-2937, and placed an order for tile in the amount of $1,633.80 using a Master Card bearing the number XXXX-XXXX-XXXX-6842. Thomas Popper provided the address of 4 Velox Street, Rochester, NY 14615. Ralph Propes, the store manager of Best Tile, was interviewed, and stated that a man who identified himself as Richard Lipke picked up the order placed by Thomas Popper. Ralph Propes received notice from the credit card company that Popper's credit card purchase was fraudulent, and the credit card company would not cover the purchases. On June 5, 2015, Investigator Wigton showed Ralph Propes a photo array after reading a standard admonishment. Propes identified the photograph of Richard Lipke as being the person who came into his store, and picked up the fraudulent purchase made by Thomas Popper.

CONCLUSION

Wherefore, I respectfully submit that the foregoing information establishes probable cause to believe that Kyle Bertrand, Paul Kozlyuk, Richard Lipke, Michael Gerone, and Herbert Street conspired with each other, and did knowingly execute or attempt to execute a scheme to defraud and to obtain money by means of false pretenses, representations and promises, and for the purpose of executing such scheme caused to be transmitted by means of interstate wire communications writings, signs, and signals, in violation of Title 18, United States Code, Sections 1343 and 1349; and did knowingly use, possess and transfer, without lawful authority, a means of identification of another person, during the commission of a predicate felony, namely, wire fraud, in violation of Title 18, United States Code, Section 1028A; and did knowingly and with intent to defraud trafficked in and used one or more unauthorized access devices during any one year period and by such conduct obtain anything of value aggregating $1,000 or more during that period in violation of Title 18, United States Code, Section 1029(a)(2).

ANDREW JASIE
Task Force Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
this 19 day of May 2016.

JONATHAN W. FELDMAN
United States Magistrate Judge